

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, March 5, 2010
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairperson Jennifer L. Martin
Vice Chair Robert R. Woodhouse
Commissioner Norman W. Freeman
Commissioner Jack F. Husted
Commissioner John W. Harris

Director Larry D. Voyles
Deputy Director Gary R. Hovatter
Deputy Director Bob Broscheid
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §15-714, §17-238, §17-314, §17-340, §17-362 and/or §17-363 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals were legally noticed for this hearing.

<u>Name</u>	<u>Docket #</u>	<u>Count</u>	<u>Conviction</u>
Leonard L. Sniff, II	2010-0001	Count A:	Take Wildlife w/o Valid License (Trap)
Henry R. Borrás	2010-0012	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season
Carlos B. Villalobos	2010-0013	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season
Joaquin R. Lopez	2010-0014	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season
Josue V. Lopez	2010-0015	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season

Seth Anderson Wilson	2010-0016	Count A:	Discharge Firearm Within ¼ Mile of Residence
		Count C:	Possess Unlawfully Taken Wildlife (Deer)
Anthony Passmore Ybarra	2010-0017	Count A:	Hunt From Vehicle
		Count B:	Take Wildlife Closed Area
		Count C:	Discharge Firearm Within ¼ Mile of Residence
Jared H. Tackett	2010-0018	Count A:	Take Wildlife During Closed Season
John K. Parks	2010-0019	Cit#222920	Take Wildlife During Closed Season
		Count B:	
Simon Acosta	2010-0020	Count A:	Take Mule Deer Doe Closed Season

Roll call was taken and the following were present: Henry Borrás, Joaquin Lopez.

Mr. Elms advised the Commission that the Department received information that Mr. Parks recently passed away. The Department is looking into the matter and requested that Mr. Parks be removed from the agenda. Further, Mr. Elms advised that Mr. Tackett called to say he is stuck in traffic, so Mr. Elms requested that Mr. Tackett's case be addressed later when he arrives. The Commission was in consensus to remove Mr. Parks from the agenda and to address Mr. Tackett's case later in the meeting.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

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The cases of Henry Borrás, Carlos B. Villalobos, Joaquin R. Lopez and Josue V. Lopez were related. Another related case, Luis A. Herrera-Rodriguez is pending in court.

Henry R. Borrás

Borras was found guilty by the North Mesa Justice Court for: Count A: Take Two Deer w/o Valid License; Count B: Possess/Transport Unlawful Taken Deer; Count C: Take Two Deer Closed Season; and sentenced Count A, B, C: Combined Fine \$905.00.

Borras was present but did not address the Commission.

Motion: Freeman moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF HENRY R. BORRAS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST HENRY R. BORRAS TO COLLECT THE **SHARED** AMOUNT OF \$3,000.00 FOR THE LOSS OF TWO (2) WHITE TAIL DEER (DOE); AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Joaquin R. Lopez

Lopez was found guilty by the North Mesa Justice Court for: Count A: Take Two Deer w/o Valid License; Count B: Possess/Transport Unlawful Taken Deer; Count C: Take Two Deer Closed Season; and sentenced Count A, B, C: Combined Fine \$905.00.

Lopez was present, but did not address the Commission.

Motion: Husted moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOAQUIN R. LOPEZ TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JOAQUIN R. LOPEZ TO COLLECT THE **SHARED** AMOUNT OF \$3,000.00 FOR THE LOSS OF TWO (2) WHITE TAIL DEER (DOE); AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT,

CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Carlos B. Villalobos

Villalobos was found guilty by the North Mesa Justice Court for: Count A: Take Two Deer w/o Valid License; Count B: Possess/Transport Unlawful Taken Deer; Count C: Take Two Deer Closed Season; and sentenced Count A, B, C: Combined Fine \$905.00.

Villalobos was not present.

Motion: Woodhouse moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CARLOS B. VILLALOBOS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST CARLOS B. VILLALOBOS TO COLLECT THE **SHARED** AMOUNT OF \$3,000.00 FOR THE LOSS OF TWO (2) WHITE TAIL DEER (DOE); AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Josue V. Lopez

Lopez was found guilty by the North Mesa Justice Court for: Count A: Take Two Deer w/o Valid License; Count B: Possess/Transport Unlawful Taken Deer; Count C: Take Two Deer Closed Season; and sentenced Count A, B, C: Combined Fine \$905.00.

Lopez was not present.

Motion: Harris moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOSUE V. LOPEZ TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE

ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JOSUE V. LOPEZ TO COLLECT THE **SHARED** AMOUNT OF \$3,000.00 FOR THE LOSS OF TWO (2) WHITE TAIL DEER (DOE); AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Seth A. Wilson

Wilson was found guilty by the Cochise County Justice Court for: Count A: Discharge Firearm Within ¼ Mile of Residence; Count B: Possess Unlawfully Taken Wildlife (Deer); and sentenced Counts A and B: Combined Fine \$650.00.

Jill Wilson was present and addressed the Commission on behalf of her son, Seth Wilson. Seth Wilson was not present due to leaving for a scheduled out-of-country 2 year church mission. Ms. Wilson requested that her son's hunting license not be revoked and that no further monetary damages be assessed. The shot was taken from their own property and they had permission from the landowner that the deer was on to hunt on his property. Also, there was a 7-8 foot dirt levy behind the deer and an empty field beyond that, and at the time they were sure they were a quarter mile from the nearest building.

Case Officer Fulk was present via telephone and answered questions for the Commission. The first shots were fired approximately 300 yards from the residence and the second shots were fired from a pistol approximately 150 yards from the same residence (Mrs. Wilson interjected that the second shots were kill shots for the wounded animal). Officer Fulk stated that Seth Wilson was very honest and cooperative and that Officer Fulk had discussed leniency with Mr. Elms due to that fact. Officer Fulk initially told the Wilson's that he was not going to pursue revocation, but it was a revocable offense and mandatory that it be presented to the Commission.

The Commission took no action on this case.

Commissioner Husted stated that the Commission needed to back up their officers in the field and to some extent even if they make a mistake. Further, officers need to know more clearly which offenses are revocable and which are not.

Mr. Elms agreed and stated that a meeting has already been scheduled in Region V to discuss the revocation process.

Director Voyles clarified for the record that the consideration for revocation on the Seth A. Wilson case died for lack of motion.

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Leonard L. Sniff

Sniff was found guilty by the Snowflake Justice Court for: Count A: Take Wildlife (Gray Fox) w/o Valid License (Trap); and sentenced Counts A: Fined \$130.00.

Sniff was not present.

Case Officer Wagner was present.

Motion: Woodhouse moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LEONARD L. SNIFF II TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST LEONARD L. SNIFF II TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF \$250.00 FOR THE LOSS OF ONE (1) GRAY FOX; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Anthony P. Ybarra

Ybarra was found guilty by the Santa Cruz County Justice Court for: Count A: Hunt From Vehicle; Count B: Take Wildlife Closed Area; Count C: Discharge Firearm Within ¼ Mile of Residence; and sentenced Count A, B, and C: Combined Fine \$1070.00.

Ybarra was not present.

Motion: Harris moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF ANTHONY P. YBARRA TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO

HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST ANTHONY P. YBARRA TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) WHITETAIL DEER; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Simon Acosta

Acosta was found guilty by the Quartzsite Justice Court for: Count A: Take Mule Deer Doe Closed Season; and sentenced Count A: Fined \$100.00, and probation.

Acosta was not present.

Case Officer Myers was present.

Motion: Husted moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF SIMON ACOSTA TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST SIMON ACOSTA TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) MULE DEER DOE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

Commissioner Husted requested that the Department look into some kind of educational process for the courts or county attorney's offices that seem to summarily dismiss a long list of charges such as in this case.

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Hearings postponed at 2:47 p.m.

Hearings continued at 4:10 p.m.

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Jared H. Tackett

Tackett was found guilty by the Pima County Consolidated Justice Court for: Count A: Take Game Closed Season (Javelina); and sentenced Count A: Fined \$100.00.

Tackett was present and addressed the Commission apologizing for his actions. In addition to his concern for his two small children, he has been dealing with javelina problems for a long. He contacted the Department four times in an 18 month period and took several steps to alleviate the problems. On this particular morning he acted out of anger and anxiety.

Case Officer Brochu was present and confirmed Mr. Tackett's statements.

Motion: Harris moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JARED H. TACKETT TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEAR; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner's Husted and Woodhouse did not agree with no civil damages in this case and Commissioner Woodhouse suggested amending the motion to add civil damages of \$500.

Amended Motion: Harris moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JARED H. TACKETT TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEAR; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JARED H. TACKETT TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF \$500.00 FOR THE LOSS OF ONE (1) JAVELINA; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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These hearings concluded at 4:22 p.m.

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